

11-2-07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/089,449 Confirmation No. : 9422  
First Named Inventor : Istvan SZELENYI  
Filed : June 28, 2002  
TC/A.U. :  
Examiner :  
Docket No. : 99380.B820005  
Customer No. : 23911  
Title : Novel Combination of Loteprednol B2-Adrenoceptor  
Agonists

**RESPONSE TO NOTIFICATION OF NON-COMPLAINT APPEAL BRIEF**

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

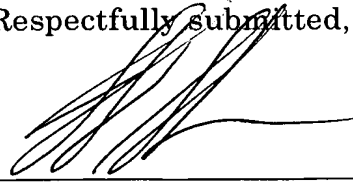
In response to the Notification of Non-Compliant Appeal Brief dated January 30, 2008, attached is a replacement Page 20 for the Appeal Brief filed December 27, 2007. This replacement page includes headings IX and X (Evidence Appendix and Related Proceedings Appendix).

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 99380.B820005).

Serial No. 10/089,449  
Response Dated: 2-28-08  
Reply to Notification Dated: 1-30-08

Respectfully submitted,



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Registration No. 30,427

February 28, 2008

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Appellants submit that absent a teaching from the cited references to combine (1) loteprednol (or loteprednol etabonate) and (2)  $\beta_2$  adrenoceptor, for the treatment of asthma bronchiale as recited in Claim 7, a *prima facie* case for obviousness has not been established. Thus, Appellants assert that the cited references do not suggest the method recited in Claim 7, and that the possibility of achieving success for this method of treatment is not reasonably expected based on the limited disclosure of the cited references. Because a *prima facie* case for obviousness has not been established, and in view of the unexpected results, Appellants respectfully request the withdrawal of the rejection of Claim 7 under 35 U.S.C. §103(a).

**VIII. Claims Appendix**

See attached Claims Appendix for a copy of the claims at issue.

**IX. Evidence Appendix**

None

**X. Related Proceedings Appendix**

None